

MONTANA LEGISLATIVE HISTORY

Chapter 507 1997

Bill H 399 S _____

Original bill & history ☒ c

H. Committee on Business & Labor

Hearing Date(s) 2-6 ☒ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Business & Industry

Hearing Date(s) 3-13 ☒ c

3-19 ☒ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

1/30 REFERRED TO APPROPRIATIONS
 1/30 FISCAL NOTE REQUESTED
 2/05 FISCAL NOTE RECEIVED
 2/10 FISCAL NOTE PRINTED
 2/12 Tabled in COMMITTEE
 3/28 MISSED DEADLINE FOR 67TH DAY TRANSMITTAL
 DIED IN COMMITTEE

HB 398 INTRODUCED BY R. JOHNSON LC1301 DRAFTER: PETESCH

GENERALLY REVISE THE LAWS GOVERNING THE LEASE WITH OPTION TO
 PURCHASE FOR STATE BUILDINGS

1/30 INTRODUCED
 1/30 FIRST READING
 1/30 REFERRED TO APPROPRIATIONS
 1/30 FISCAL NOTE REQUESTED
 2/05 HEARING
 2/05 FISCAL NOTE RECEIVED
 2/07 FISCAL NOTE PRINTED
 2/19 HEARING
 3/25 COMMITTEE REPORT—BILL PASSED AS AMENDED
 3/26 2ND READING PASSED 82 16
 3/27 3RD READING PASSED 77 22

TRANSMITTED TO SENATE
 3/28 FIRST READING
 3/28 REFERRED TO FINANCE & CLAIMS
 4/09 HEARING
 4/09 COMMITTEE REPORT—BILL CONCURRED AS AMENDED
 4/11 2ND READING CONCURRED 43 7
 4/12 3RD READING CONCURRED 41 8

RETURNED TO HOUSE WITH AMENDMENTS
 4/15 2ND READING AMENDMENTS NOT CONCURRED 94 3
 4/15 FREE CONFERENCE COMMITTEE APPOINTED
 4/17 HEARING
 4/17 FREE CONFERENCE COMMITTEE REPORT NO. 1
 4/18 2ND READING FREE CONFERENCE COMMITTEE
 REPORT NO. 1 ADOPTED 77 22
 4/19 3RD READING FREE CONFERENCE COMMITTEE
 REPORT NO. 1 ADOPTED 75 21

SENATE
 4/16 FREE CONFERENCE COMMITTEE APPOINTED
 4/17 FREE CONFERENCE COMMITTEE REPORT NO. 1
 4/18 2ND READING FREE CONFERENCE COMMITTEE
 REPORT NO. 1 ADOPTED 48 0
 4/19 3RD READING FREE CONFERENCE COMMITTEE
 REPORT NO. 1 ADOPTED 40 8
 4/21 SIGNED BY SPEAKER
 4/25 SIGNED BY PRESIDENT
 4/25 TRANSMITTED TO GOVERNOR
 4/30 SIGNED BY GOVERNOR
 CHAPTER NUMBER 455
 EFFECTIVE DATE: 04/30/97

HB 399 INTRODUCED BY TUSS, ET AL. LC1102 DRAFTER: FOX

TRANSFER THE DUTIES AND RESPONSIBILITIES FOR CERTIFYING
 CHEMICAL DEPENDENCY COUNSELORS FROM THE DEPARTMENT OF
 PUBLIC HEALTH AND HUMAN SERVICES TO THE DEPARTMENT OF
 COMMERCE

1/30 INTRODUCED

1/30 FIRST READING
 1/30 REFERRED TO BUSINESS & LABOR
 1/30 FISCAL NOTE REQUESTED
 2/06 HEARING
 2/06 FISCAL NOTE RECEIVED
 2/07 FISCAL NOTE PRINTED
 2/07 COMMITTEE REPORT—BILL PASSED
 2/08 2ND READING PASSED 50 47
 2/10 3RD READING PASSED 56 43

TRANSMITTED TO SENATE
 2/11 FIRST READING
 2/11 REFERRED TO BUSINESS & INDUSTRY
 3/13 HEARING
 3/21 COMMITTEE REPORT—BILL CONCURRED AS AMENDED
 3/26 2ND READING CONCURRED 50 0
 3/27 3RD READING CONCURRED 50 0

RETURNED TO HOUSE WITH AMENDMENTS
 4/10 2ND READING AMENDMENTS CONCURRED 91 6
 4/11 3RD READING CONCURRED AS AMENDED 74 23
 4/20 SIGNED BY SPEAKER
 4/24 SIGNED BY PRESIDENT
 4/25 TRANSMITTED TO GOVERNOR
 5/01 SIGNED BY GOVERNOR
 CHAPTER NUMBER 507
 EFFECTIVE DATE: 07/01/97

HB 400 INTRODUCED BY HAGENER, ET AL. LC1087 DRAFTER: ERICKSON

AUTHORIZE THE ISSUANCE OF SCOUTING LICENSE PLATES

1/30 INTRODUCED
 1/30 FIRST READING
 1/30 REFERRED TO TRANSPORTATION
 1/30 FISCAL NOTE REQUESTED
 2/05 FISCAL NOTE RECEIVED
 2/05 FISCAL NOTE PRINTED
 2/10 HEARING
 3/10 Tabled in COMMITTEE
 4/05 MISSED DEADLINE FOR 71ST DAY TRANSMITTAL
 DIED IN COMMITTEE

HB 401 INTRODUCED BY BARNETT, ET AL. LC1226 DRAFTER: PETESCH

REVISE THE LAWS GOVERNING BAIL

1/30 INTRODUCED
 1/30 FIRST READING
 1/30 REFERRED TO JUDICIARY
 2/11 HEARING
 2/12 COMMITTEE REPORT—BILL PASSED AS AMENDED 98 0
 2/15 2ND READING PASSED 100 0
 2/18 3RD READING PASSED

TRANSMITTED TO SENATE
 2/19 FIRST READING
 2/19 REFERRED TO JUDICIARY
 3/12 HEARING
 3/14 COMMITTEE REPORT—BILL CONCURRED AS AMENDED 49 0
 3/17 2ND READING CONCURRED 48 1
 3/18 3RD READING CONCURRED

RETURNED TO HOUSE WITH AMENDMENTS
 4/10 2ND READING AMENDMENTS CONCURRED 96 0

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INTRODUCED BY House BILL NO. 399
James Christensen

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE DUTIES AND RESPONSIBILITIES FOR CERTIFYING CHEMICAL DEPENDENCY COUNSELORS FROM THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO THE DEPARTMENT OF COMMERCE; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR DEPARTMENT POWERS AND DUTIES; PROVIDING CERTIFICATION REQUIREMENTS AND FEES; PROVIDING FOR COMPLAINTS OF UNPROFESSIONAL CONDUCT AND SANCTIONS; PROVIDING A CRIMINAL PENALTY FOR VIOLATIONS; PROVIDING FOR TRANSITION; AMENDING SECTIONS 33-22-705, 37-23-201, AND 53-24-204, MCA; REPEALING SECTIONS 53-24-215, 53-24-216, AND 53-24-217, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] grants rulemaking authority to the department of commerce.

It is the intent of the legislature that the department of commerce have authority to adopt rules to implement and enforce [sections 1 through 9] and specific authority to adopt rules regarding:

- (1) certification applications and procedures necessary to receive and process those applications;
- (2) examinations and criteria for grading examinations;
- (3) disciplinary standards for certificate holders, including definitions of conduct for which discipline may be appropriate;
- (4) investigations of complaints;
- (5) setting and modifying appropriate fees; and
- (6) a process for renewal of certificates, including procedures for late renewal.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The legislature finds and declares that because the profession of chemical dependency counseling profoundly affects the lives of people of this state, it is the purpose of [sections 1 through 9] to provide for the common good by ensuring the ethical, qualified, and professional

1 practice of chemical dependency counseling. [Sections 1 through 9] and the rules promulgated under
2 [section 3] set standards of qualification, education, training, and experience and establish professional
3 ethics for those who seek to engage in the practice of chemical dependency counseling as certified
4 chemical dependency counselors.

5
6 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 9], the following definitions
7 apply:

8 (1) "Accredited college or university" means a college or university accredited by a regional
9 accrediting association for institutions of higher learning.

10 (2) "Certified chemical dependency counselor" means a person who has the knowledge and skill
11 necessary to provide the therapeutic process of chemical dependency counseling and who is certified under
12 the provisions of [sections 1 through 9].

13 (3) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates
14 behavior or health problems, or both, resulting in operational impairment. This term includes alcoholism,
15 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of
16 an individual or the public health, safety, or welfare.

17 (4) "Department" means the department of commerce provided for in 2-15-1801.
18

19 **NEW SECTION. Section 3. Department powers and duties.** (1) The department shall:

20 (a) examine, certify, and renew the certificates of qualified applicants;

21 (b) adopt rules:

22 (i) for eligibility requirements and competency standards;

23 (ii) prescribing the time, place, content, and passing requirements of the certification and
24 competency examinations and passing scores for certification under [section 5];

25 (iii) for application forms and fees for certification and for renewal and certification expiration dates;

26 and

27 (iv) defining any unprofessional conduct that is not included in 37-1-316; and

28 (c) adopt and implement rules for training programs, internships, and continuing education
29 requirements to ensure the quality of chemical dependency counseling.

30 (2) The department may:

1 (a) adopt rules necessary to implement the provisions of [sections 1 through 9];

2 (b) adopt rules specifying the scope of chemical dependency counseling that are consistent with
3 the education required by [section 5]; and

4 (c) establish recertification requirements and procedures that the department considers appropriate.
5

6 **NEW SECTION. Section 4. Certificate required -- exceptions.** (1) Except as otherwise provided
7 in [sections 1 through 9], a person may not practice chemical dependency counseling or represent to the
8 public that the person is a certified chemical dependency counselor unless the person is certified under the
9 provisions of [sections 1 through 9].

10 (2) [Sections 1 through 9] do not prohibit an activity or service:

11 (a) performed by a qualified member of a profession, such as a physician, lawyer, licensed
12 professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation
13 officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or
14 certification and the code of ethics of the person's profession, as long as the person does not represent
15 by title that the person is a certified chemical dependency counselor. If a person is a qualified member of
16 a profession that is not licensed or certified or for which there is no applicable code of ethics, this section
17 does not prohibit an activity or service of the profession as long as the person does not represent by title
18 that the person is a certified chemical dependency counselor.

19 (b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state,
20 county, or municipal agency or an educational, research, or charitable institution if that activity or service
21 or use of that title is a part of the duties of the office or position;

22 (c) of an employee of a business establishment performed solely for the benefit of the
23 establishment's employees;

24 (d) of a student, intern, or resident in chemical dependency counseling who is pursuing a course
25 of study at an accredited college or university or who is working in a generally recognized training center
26 if the activity or service constitutes part of the course of study;

27 (e) of a person who is not a resident of this state if the activity or service is rendered for a period
28 that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under
29 the laws of the state or country of residence to perform the activity or service. However, the person shall
30 report to the department the nature and extent of the activity or service if it exceeds 10 days in a calendar

1 year.

(f) of a person who is working to satisfactorily complete supervised chemical dependency counseling experience required for certification.

(3) [Sections 1 through 9] are not intended to limit, preclude, or interfere with the practice of other persons and health care providers licensed by the appropriate agencies of the state of Montana.

NEW SECTION. Section 5. Certification requirements -- examination -- fees. (1) To be eligible for certification as a chemical dependency counselor, the applicant shall submit an application fee in an amount established by the department by rule and a written application on a form provided by the department that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by department rule.

(2) A person may apply for certification as a certified chemical dependency counselor if the person has:

(a) received a baccalaureate degree in alcohol and drug studies, psychology, sociology, social work, counseling, or a related field from an accredited college or university;

(b) received an associate of arts degree in alcohol and drug studies, chemical dependency, or substance abuse from an accredited institution; or

(c) successfully completed at least 1 year of formalized training in chemical dependency counseling in a program approved by the department or recognized under the laws of another state.

(3) Prior to becoming eligible to begin the examination process, each person shall complete supervised work experience in a chemical dependency treatment program as defined by the department, in an internship approved by the department, or in a similar program recognized under the laws of another state.

(4) Each applicant shall successfully complete a competency examination process as defined by rules adopted by the department.

(5) A person holding a certificate to practice as a certified chemical dependency counselor in this state may use the title "certified chemical dependency counselor".

NEW SECTION. Section 6. Renewal of license -- application and fee. (1) A certificate expires biennially on the date set by department rule.

1 (2) A certificate holder may renew a certificate by:

2 (a) filing an application on a form prescribed by the department; and

3 (b) paying a renewal fee in an amount established by the department.

4 (3) A default in the payment of a renewal fee after the date it is due may increase the fee, as
5 prescribed by the department by rule.

6 (4) It is unlawful for a person who refuses or fails to pay the renewal fee to practice as a certified
7 chemical dependency counselor in this state.

8 (5) A certificate not renewed within 1 year following its expiration date terminates automatically.
9

10 **NEW SECTION. Section 7. Unprofessional conduct complaint -- sanctions.** (1) A formal complaint
11 alleging unprofessional conduct by a certified chemical dependency counselor may be directed to the
12 department. The charges must be made by an affidavit, subscribed and sworn to by the person making
13 it, and filed with the department.

14 (2) The complaint may allege any unprofessional conduct contained in 37-1-316 or as further
15 defined by department rule that constitutes a threat to the public health, safety, or welfare and that is
16 inappropriate to the practice of a certified chemical dependency counselor.

17 (3) The director of the department shall appoint a review panel to investigate a complaint of
18 unprofessional conduct directed to the department. The panel must consist of:

19 (a) three certified chemical dependency counselors;

20 (b) one employee of the department; and

21 (c) one member of the public.

22 (4) The panel shall recommend to the department either that the person be cleared of any charges
23 or that a sanction or combination of sanctions contained in 37-1-312 be imposed.

24 (5) For the purposes of this section, the department is vested with a board's authority for the
25 purposes of the procedures in 37-1-307 through 37-1-318 regarding unprofessional conduct, and 37-1-301
26 through 37-1-318 apply to any proceeding under this section.
27

28 **NEW SECTION. Section 8. Penalty.** A person convicted of violating any provision of [sections 1
29 through 9] is guilty of a misdemeanor and shall be fined an amount not to exceed \$500, be imprisoned in
30 a county jail for a term not to exceed 6 months, or both.

1 **NEW SECTION. Section 9. Deposit of fees.** All fees and money received by the department must
2 be deposited in the state treasury to the credit of a state special revenue fund for use by the department
3 in its performance of its duties under [sections 1 through 9].
4

5 **NEW SECTION. Section 10. Transition -- transfer of certificates.** The department shall grant a
6 certificate without the need for further application or other requirements to those persons holding a current,
7 unrestricted certificate as a certified chemical dependency counselor as of [the effective date of this act]
8 that was issued by the department of public health and human services.
9

10 **Section 11.** Section 33-22-705, MCA, is amended to read:

11 **"33-22-705. Inpatient and outpatient benefits.** (1) "Inpatient benefits" are benefits payable for
12 charges made by a hospital or freestanding inpatient facility for the necessary care and treatment of mental
13 illness, alcoholism, or drug addiction furnished to a covered person while confined as an inpatient and, with
14 respect to major medical policies or contracts, also includes those benefits payable for charges made by
15 a physician for the necessary care and treatment of mental illness, alcoholism, or drug addiction furnished
16 to a covered person while confined as an inpatient. Care and treatment of alcoholism or drug addiction in
17 a freestanding inpatient facility must be in a chemical dependency treatment center that is approved by the
18 department of public health and human services under 53-24-208.

19 (2) "Outpatient benefits" are benefits payable for:

20 (a) reasonable charges made by a hospital for the necessary care and treatment of mental illness,
21 alcoholism, or drug addiction furnished to a covered person while not confined as an inpatient;

22 (b) reasonable charges for services rendered or prescribed by a physician for the necessary care
23 and treatment for mental illness, alcoholism, or drug addiction furnished to a covered person while not
24 confined as an inpatient;

25 (c) reasonable charges made by a mental health or chemical dependency treatment center for the
26 necessary care and treatment of a covered person provided in the treatment center. The chemical
27 dependency treatment center must be approved by the department of public health and human services
28 under 53-24-208.

29 (d) reasonable charges for services rendered by a licensed psychiatrist, psychologist, licensed
30 professional counselor, licensed social worker, or chemical dependency counselor certified by the

department of ~~public health and human services under 53-24-204~~ commerce under [sections 1 through 9]."

Section 12. Section 37-23-201, MCA, is amended to read:

"37-23-201. Representation or practice as licensed clinical professional counselor -- license required. (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical professional counselor" or "professional counselor".

(2) Except as provided in subsection (3), a person may not represent that the person is a licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after the person's name or by any other means, engage in the practice of professional counseling, or represent that the person is engaged in the practice of professional counseling, unless licensed under this chapter.

(3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC".

(4) Subsection (2) does not prohibit:

(a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor accredited by a federal agency, or chemical dependency counselor certified pursuant to ~~53-24-215~~ [sections 1 through 9], from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession or, in the case of a qualified member of another profession who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is engaging in the practice of professional counseling;

(b) an activity or service or use of an official title by a person employed by or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution that is a part of the duties of the office or position;

(c) an activity or service of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) an activity or service of a student, intern, or resident in mental health counseling pursuing a course of study at an accredited university or college or working in a generally recognized training center

1 if the activity or service constitutes a part of the supervised course of study;

2 (e) an activity or service of a person who is not a resident of this state, which activity or service
3 is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year, if the
4 person is authorized under the law of the state or country of residence to perform the activity or service.
5 However, the person shall report to the department of commerce the nature and extent of the activity or
6 service if it exceeds 10 days in a calendar year.

7 (f) pending disposition of the application for a license, the activity or service by a person who has
8 recently become a resident of this state, has applied for a license within 90 days of taking up residency in
9 this state, and is licensed to perform the activity or service in the state of the person's former residence;

10 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of
11 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned
12 graduate program as required by 37-23-202(1)(a) or is working to complete the 3,000 hours of social work
13 experience as required by 37-22-301; or

14 (h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed
15 psychologist when performing the activity or service in a manner consistent with the person's license and
16 the code of ethics of the person's profession."

17
18 **Section 13.** Section 53-24-204, MCA, is amended to read:

19 **"53-24-204. Powers and duties of department.** (1) To carry out this chapter, the department may:

- 20 (a) accept gifts, grants, and donations of money and property from public and private sources;
- 21 (b) enter into contracts;
- 22 (c) acquire and dispose of property.

23 (2) The department shall:

- 24 (a) approve treatment facilities as provided for in 53-24-208;
- 25 (b) prepare a comprehensive long-term state chemical dependency plan every 4 years and update
26 this plan each biennium;
- 27 (c) provide for and conduct statewide service system evaluations;
- 28 (d) distribute state and federal funds to the counties for approved treatment programs in
29 accordance with the provisions of 53-24-206;
- 30 (e) plan in conjunction with approved programs and provide for training of program personnel

delivering services to ~~chemically dependent~~ persons with a chemical dependency;

(f) establish criteria to be used for the development of new programs;

~~(g) certify and establish standards for the certification of:~~

~~(i) chemical dependency counselors; and~~

~~(ii) instructors providing chemical dependency educational courses;~~

~~(h)(g)~~ encourage planning for the greatest utilization of funds by discouraging duplication of services, encouraging efficiency of services through existing programs, and encouraging rural counties to form multicounty districts or contract with urban programs for services;

~~(h)(h)~~ cooperate with the board of pardons and parole in establishing and conducting programs to provide treatment for ~~chemically dependent and~~ intoxicated persons and persons with a chemical dependency in or on parole from penal institutions;

~~(i)(i)~~ establish standards for chemical dependency educational courses provided by state-approved treatment programs and approve or disapprove the courses; and

~~(j)(j)~~ assist all interested public agencies and private organizations in developing education and prevention programs for chemical dependency."

NEW SECTION. Section 14. Repealer. Sections 53-24-215, 53-24-216, and 53-24-217, MCA, are repealed.

NEW SECTION. Section 15. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 9].

NEW SECTION. Section 16. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 1997.

(2) The department may publish a notice of adoption of rules and of a hearing to adopt rules to be effective on July 1, 1997.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0399, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act transferring the duties and responsibilities for certifying chemical dependency counselors from the Department of Public Health and Human Services to the Department of Commerce; providing rulemaking authority; providing for department powers and duties; providing certification requirements and fees; providing for complaints of unprofessional conduct and sanctions; providing a criminal penalty for violators; and providing for transition.

ASSUMPTIONS:

Department of Commerce/POL Bureau:

1. The operating expenses and personal services for the licensing of chemical dependency counselors will be transferred to the Department of Commerce (DOC) and will be paid from the alcohol earmarked tax (A/E 02034) in the Department of Public Health and Human Services (DPHHS) state special revenue account created by HB 399.
2. Operating and personal services expenses include the printing costs for applications and licenses, salaries and benefits for 1.00 FTE program specialist, grade 14, supplies and materials, communications, travel for a five member review panel, and rent for examination sites, and administrative indirect costs.
3. Examination applicants will pay directly to a contracted testing agency for the costs of administering and grading written and oral examinations.
4. HB 399 requires the establishment of a state special revenue account which will be established in the DOC for the deposit of fees. Additional expenses incurred with application processing, licensing and renewals above those paid by the alcohol earmarked tax would be paid from the licensing account.
5. There are an estimated 500 certified dependency counselors who were issued licenses for a four-year period and approximately 175 of those licenses will expire both in fiscal year 1998 and fiscal year 1999. The 175 licensees will pay a proposed renewal fee of at least \$100 and it is anticipated there will be 60 new applications per year.
6. The DPHHS will transfer equipment, which includes a desk, chair, computer, and file cabinets, currently used by the 1.00 FTE to the DOC.
7. Administrative indirect costs to other licensing boards will be reallocated if the proposed legislation passes.

Department of Health and Human Services:

8. The Addictive and Mental Disorders Division (AMDD) of DPHHS currently performs this function.
9. DPHHS-AMDD would transfer 1.00 FTE program specialist, grade 14, to the DOC.
10. The transfer would include personal services and operating expenses allocated to the position in fiscal year 1996.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
<u>Department of Commerce, POL Bureau:</u>	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00
Personal Services	38,215	38,215
Operating Expenses	<u>34,283</u>	<u>34,324</u>
Total	72,498	72,539
<u>Department of Health and Human Services:</u>		
FTE	(1.00)	(1.00)
Personal Services	(38,215)	(38,215)
Operating Expenses	<u>(10,783)</u>	<u>(10,824)</u>
Total	(48,998)	(49,039)

(Continued)

Dave Lewis 2-5.97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Carley Tuess
 CARLEY TUSS, PRIMARY SPONSOR DATE

Fiscal Note for HB0399, as introduced

HB 399

	<u>FY98</u>	<u>FY99</u>
<u>Funding:</u>	<u>Difference</u>	<u>Difference</u>
Chemical Dependency Fees (02)	23,500	23,500
Alcohol Earmarked Tax (02)	<u>48,998</u>	<u>49,039</u>
Total	72,498	72,539

Net Impact on Fund Balance: (Revenue minus expenses):

Chemical Dependency Fees (02)	23,500	23,500
Alcohol Earmarked Tax (02)	(48,998)	(49,039)

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay?
(Please explain)

No. Licensing fees paid by applicants for a chemical dependency counselor license in combination with the resources provided by the alcohol earmarked revenue account will support the costs incurred by the Department of Commerce.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

Problems which arise in regard to the services provided by chemical dependency counselors can be mitigated by resources funded directly by the fees from those regulated rather than from those allocated to the alcohol tax earmark account or the general fund.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? XX Yes No (if no, explain)

- d) Does the need for this state special revenue provision still exist? XX Yes No (Explain)

Fees collected from the licensing of chemical dependency counselors will be used to help offset the costs incurred through the regulation of this profession.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The Legislature establishes appropriation authority for each biennium for state special revenue accounts. The Legislature also sets priorities when it considers Executive Budget priorities and the Legislative Code Committee provides oversight and guidance in the establishment of settings sufficient fees by rule to meet anticipated program costs.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

Yes, provided the legislature continues to understand the importance and the need to mandate the regulation and licensing of the professions.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

Agencies with the responsibility of maintaining the solvency of state special revenue accounts generally raise or lower fees to keep them commensurate with projected costs. Activities funded by the general fund typically do not have the responsibility of maintaining the resources necessary to fully support their program. This difference greatly contributes to accounting, budgeting, and auditing efficiency.

{Tape: 3; Side: 1; Approx. Time Count: 29.8; Comments: None.}

Discussion:

{Tape: 3; Side: 1; Approx. Time Count: 30.0; Comments: None.}

Motion/Vote: Rep. Pavlovich moved to Table HB 349. Motion carried roll call vote 10-9.

{Tape: 3; Side: 2; Approx. Time Count: 2.0; Comments: None.}

EXECUTIVE ACTION ON HB 399

Motion/Vote: Rep. Tuss moved do
pass HB 399. Motion carried unanimously.

{Tape: 3; Side: 2; Approx. Time Count: 3.8; Comments: None.}

EXECUTIVE ACTION ON SB 152

Motion/Vote: Rep. Devaney moved do concur SB 152. Motion carried unanimously.

{Tape: 3; Side: 2; Approx. Time Count: 4.0; Comments: None.}

Proponents' Testimony: Andy Poole, Deputy Dir. Dept. of Administration. EXHIBIT 12.

{Tape: 2; Side: 2; Approx. Time Count: 17.5; Comments: None.}

Ralph Peck, Director, MT Dept. of Agriculture.

{Tape: 2; Side: 2; Approx. Time Count: 24.5; Comments: None.}

David Owen, MT Chamber of Commerce

{Tape: 2; Side: 2; Approx. Time Count: 25.8; Comments: None.}

Kathleen Martin, Chief of Communicable Disease Control.

{Tape: 2; Side: 2; Approx. Time Count: 26.; Comments: None.}

Mary Bryson, Director Department of Revenue

{Tape: 2; Side: 2; Approx. Time Count: 26.6; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 2; Side: 2; Approx. Time Count: 31.9; Comments: None.}

Closing by Sponsor: Rep. Rose closed.

{Tape: 3; Side: 1; Approx. Time Count: 5.8; Comments: None.}

HEARING ON HB 399

Opening Statement by Sponsor: Rep. Tuss H.D. 46 introduced the bill.

{Tape: 3; Side: 1; Approx. Time Count: 5.8; Comments: None.}

Proponents' Testimony:

Darrell Burns, Dept. of Health and Human Services. EXHIBIT 13 AND 14.

{Tape: 3; Side: 1; Approx. Time Count: 7.2; Comments: None.}

Gloria Hermanson, MT Psychological Assn.

{Tape: 3; Side: 1; Approx. Time Count: 14.5; Comments: None.}

Mary McCue, Mt. Clinical Public Health Assn.

{Tape: 3; Side: 1; Approx. Time Count: 16.1; Comments: None.}

Kit Loresky, Alcohol and Drug Counselors

{Tape: 3; Side: 1; Approx. Time Count: 16.9; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor: Rep. Tuss closed. EXHIBIT 14.

{Tape: 3; Side: 1; Approx. Time Count: 17.2; Comments: None.}

SENATE BUSINESS & INDUSTRY

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - - - - - REREFERRED - - - - - DATE READ

HB0331	SOFT, LOREN		AMEND YOUTH ACCESS TO TOBACCO PRODUCTS CONTROL ACT			
	2/14	3/07		CONCUR AS AMENDED	03/07 VOTE: 6-0	3/11
HB0350	BEAUDRY, HALEY		REVISE ECONOMIC DEVELOPMENT INVESTMENT PROGRAM			
	2/04	3/05		CONCUR	03/07 VOTE: 6-0	3/07
HB0357	WELLS, JACK		CLARIFY LANDLORD'S WAIVER OF CLAIMED RENTAL AGREEMENT BREACH BY TENANT			
	2/06	3/12		CONCUR	03/12 VOTE: 6-0	3/13
HB0375	RYAN, WILLIAM		REVISING REGULATIONS REGARDING EXCAVATION NEAR UNDERGROUND UTILITY			
	2/07	3/19		CONCUR	03/19 VOTE: 6-0	3/21
HB0382	ORR, SCOTT		EXTEND PERMISSIBILITY OF INSTALLING BELOW-GRADE LPG-BURNING APPLIANCES			
	2/07	3/12		CONCUR	03/12 VOTE: 6-0	3/13
HB0388	SIMON, BRUCE		GENERALLY REVISE BUILDING CODE LAWS			
	2/19	3/13		CONCUR AS AMENDED	03/25 VOTE: 6-0	3/26
HB0391	ROSE, JOHN		IMPLEMENT ONE-STOP BUSINESS LICENSING PILOT PROJECT			
	4/02	4/07		CONCUR	04/07 VOTE: 6-0	4/07
HB0399	TUSS, CARLEY		TRANSFER CHEMICAL DEPENDENCY COUNSELOR CERTIFICATION TO COMMERCE FROM DPHHS			
	2/11	3/13		CONCUR AS AMENDED	03/19 VOTE: 6-0	3/21
HB0406	BANKHEAD, PAUL		GENERALLY REVISE LANDLORD AND TENANT LAWS			
	2/12	3/18		CONCUR AS AMENDED	03/19 VOTE: 6-0	3/21
HB0431	QUILICI, JOE		PROHIBIT UNAUTHORIZED CHANGE IN LONG DISTANCE SERVICE PROVIDER ("SLAMMING")			
	2/19	3/14		CONCUR AS AMENDED	03/19 VOTE: 6-0	3/21
HB0435	HARPER, HAL		REQUIRE CERTAIN INFO WHEN MAKING CAT OR DOG AVAILABLE FOR SALE OR ADOPTION			
	2/19	3/14		CONCUR AS AMENDED	03/19 VOTE: 4-1	3/21
HB0478	WISEMAN, WILLIAM		REVISING DEF. OF "GLASS BROKER"; REVISE PROHIBITIONS IN RE AUTO GLASS SALES			
	2/19	3/14		CONCUR	03/19 VOTE: 6-0	3/21

problems. Are we having greater numbers of fires outside the city limits of Helena and Great Falls? No. There was an article about this extended jurisdiction in the Gazette back in December. Ironically, in the same paper was an article about a fire that occurred in a chimney because of cracks and holes and this was in an area inspected by the City of Billings. They do make mistakes. In Richland County they are concerned about the hockey rink. Well, that is a public building and will be inspected anyway.

As far as the indirect cost, I would like to point out that this is an issue you heard and that the City of Missoula needs 45%. I went to the Auditor's office downstairs and the language on page 5 of the bill (originally I said they could have up to 10%) the language was reconstructed in the House and we inserted the language giving them the authority to do exactly what the City of Missoula does. If their county procedures are set up in such a way that they don't charge a lot of things into the direct cost and use it as indirect costs, they can do that under the change. But they have to treat this department like the other departments. They can't create a separate kind of accounting procedure for the building codes department that is not used for all the other departments in the city.

What this bill comes down to is an issue of the Constitution. If you believe in the Constitution and if you took an oath to uphold the Constitution, you will vote accordingly. The amendments that were proposed reiterated that this is the issue. They didn't argue that issue with you, did they? They know I am right. They came in through the back door and presented arguments about codes and fires. I would hope that you would recognize the red herring and recognize that they recognize it. I am right and you are right, SEN. EMERSON. It is a Constitutional problem and that is the reason it is before you. If they want to have a bill to cover all residential property in the State of Montana, let them bring in the bill. I would appreciate very much your concurrence in this piece of legislation.

{Tape: 2; Side: A; Approx. Time Count: 11:12 AM; Comments: A 10 MINUTE BREAK WAS TAKEN.}

HEARING ON HB 399

Sponsor: REP. CARLEY TUSS, HD 46, BLACK EAGLE

Proponents: Darryl Bruno, Asst. Administrator, Addictive & Mental Disorders, Dept. of Health & Human Services
Steve Meloy, Bureau Chief, Professional & Occupational Licensing, Dept. of Commerce
Mary McCue, Licensed Professional Counselors
Gloria Hermanson, MT Psychological Association

Opponents: None

Opening Statement by Sponsor:

SEN. STEVE BENEDICT opened for REP. CARLEY TUSS, HD 46, BLACK EAGLE. HB 399 is an act transferring the duties and responsibilities for certifying chemical dependency counselors from the Department of Public Health and Human Services to the Department of Commerce and providing some rulemaking authority and providing for department powers and duties, providing certification requirements and fees, providing for complaints of unprofessional conduct and sanctions, providing a criminal penalty for violations, providing for transition and amending sections. The fiscal note is probably not accurate. The money that is now being collected from this program under DPHHS will go with the program to the Dept. of Commerce and the bill will be revenue neutral and could actually end up saving a little bit of money. Thank you.

Proponents' Testimony:

Darryl Bruno, Asst. Administrator, Addictive & Mental Disorders Div., Department of Public Health and Human Services. We have requested this bill to transfer chemical dependency counselors to the Dept. of Commerce. There are numerous reasons. Our roles are approving programs, developing treatment standards for state-approved programs and developing standards for schools and assisting community programs and developing prevention programs. All of our work over the years has been done with the state-approved programs. The demands on the certification has increased over the years and in 1987, insurance reimbursement was allowed for chemical dependency counselors. Not only in state-approved programs, but throughout the whole system, many of the counselors who are providing chemical dependency services are in the private sector. Other than certifying them, we have no relationship with them. That compounds our work and responsibilities. Basically this legislation certainly required greater regulation than we were prepared to provide. However, we continued with it. Right now, we estimate less than 30% of the counselors that we certify are working in the state-approved programs. In the last session, numerous licensing and certification were transferred over to Commerce due to reorganization. For some reason our certification program was not. In SB 226, it allowed the professional counselors to take action with fines and incarceration for people practicing beyond their scope of practice. This has brought numerous complaints to our Dept. Our role, again by law, is really with the regulating of state-approved chemical dependency programs. The Dept. of Commerce has that kind of expertise. We feel it should be transferred because all other counseling organizations are in Commerce. They have the expert staff to provide the investigators, the attorneys, etc. It is a good one-stop shopping bill. The issues I really wanted to address because of the nature of chemical dependency counseling and the evolution over the years, are a fairly complex system. Our department is required to administer a comprehensive system of examinations to

evaluate the knowledge and skills necessary for chemical dependency counseling. My concern with the fiscal note is that it does tend to show that the cost will increase in Commerce. That is not true. Those costs that we have now in our department have been absorbed by General Fund dollars. We are proposing to transfer the one position of the direct cost to operate our certification system to Commerce. Those other indirect costs to run a bureau over there would be self-supporting. It should become a self-supporting agency. At our request, the Dept. of Commerce wrote the bill. We would be doing the same services there as we had in the DPHHS. He submitted his testimony (EXHIBIT 22).

Steve Meloy, Bureau Chief, Professional & Occupational Licensing Bureau. We support this bill. We work closely with Mr. Bruno and his department. It is a natural working relationship. The Governor had intended this originally. It allows that program to support itself. It should be a savings to the state.

Mary McCue, Licensed Professional Counselors; MT Chapter of The National Assoc. of Social Workers. These two groups want to express their support because they share a common board at Commerce. They feel it makes sense that all of the mental health providers and addictive providers be regulated under the same department. The MT Addiction Services Providers will be the people transferred to Commerce. They would like me to express their support for this bill.

Gloria Hermanson, MT Psychological Assoc. For the sake of one-stop shopping and for simple common sense administration, we support this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. BEA MCCARTHY asked REP. TUSS if she would like to say anything as an opening statement at this point. REP. TUSS said that when the chemical dependency counselors were originally placed in the DPHHS that made sense, but as things change, the Department's ability to respond to greater demands gets out of sync. I believe that the transfer to the Dept. of Commerce is a logical and necessary move.

SEN. STEVE BENEDICT made a suggested amendment to Mr. Bruno. In section 7, page 5, lines 19, 20 and 21, concerning the makeup of the panel, is it necessary to have three certified chemical dependency counselors, one employee of the Department and one member of the public? He was thinking of the professionals closing ranks a bit. To give a bit more balance to the panel, it might be better to have two certified chemical dependency counselors to be able to give the kinds of background that the panel needs and then two members of the public. This would give

more balance. Would you have a problem with this, Mr. Bruno?
Mr. Bruno answered no.

SEN. WILLIAM CRISMORE asked Mr. Meloy to comment. Mr. Meloy explained that the language is consistent with the way all the other boards allow the majority on a board to be members of the profession regulated. But it certainly doesn't have to be that way. They have recommended that the public be the majority on the board. So maybe it would be a good move and it might set a precedent.

SEN. BENEDICT asked if this would put the Department in an uncomfortable position of being the swing vote with a two and two possible split? Mr. Meloy replied that it may, but they would certainly accept that challenge. The Dept. should have the most intimate knowledge of that profession.

SEN. CASEY EMERSON asked if the sponsor felt good about the suggested amendment? REP. TUSS replied yes.

Closing by Sponsor:

REP. TUSS closed. I close and thank you very much and hope you concur.

EXECUTIVE ACTION ON HB 406

Motion: SEN. BEA MCCARTHY MOVED HB 406 BE CONCURRED IN.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 406 (EXHIBIT 3)
hb040601.abc.

Discussion: Bart Campbell explained the amendments. The 15 days are being left in for mobile home courts for payment of rent. SEN. BENEDICT felt this was a good bill and especially with the current law being left regarding the 15 days. The grace period is left up to the landlord. He can use zero to whatever days as a grace period.

Vote: THE MOTION TO AMEND HB 406 CARRIED WITH SENATORS CRISMORE AND EMERSON voting NO: 4-2

Motion/Vote: SEN. BENEDICT MOVED HB 406 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. DEPRATU WILL CARRY.

EXECUTIVE ACTION ON HB 78

Motion: SEN. BEA MCCARTHY MOVED HB 78 BE CONCURRED IN.

Amendments: SEN. WILLIAM CRISMORE MOVED TO AMEND HB 78 (EXHIBIT 4) hb007801.abc.

Discussion: Bart Campbell explained the amendment. The quota of protestors to license holders would be 50%. SEN. HERTEL AND SEN. BENEDICT felt that 50% was a more reasonable number.

Motion/Vote: SEN. CRISMORE MOVED HB 78 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED WITH SENATOR SHEA voting NO: 5-1

EXECUTIVE ACTION ON HB 399

Motion: SEN. STEVE BENEDICT MOVED HB 399 BE CONCURRED IN.

Amendments: SEN. MCCARTHY MOVED TO AMEND HB 399 (EXHIBIT 5)
hb039901.abc.

Discussion: SEN. BENEDICT explained the amendment as he had proposed it to the sponsor. It changes the type of members on the board to two members of the profession and two members of the public. They felt that was a good balance.

Vote: THE MOTION TO AMEND HB 399 CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MCCARTHY MOVED HB 399 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY. SEN. BENEDICT WILL CARRY.

HB 267 was discussed and amendments (EXHIBIT 6) were submitted. It was then decided to put the bill on hold till some questions could be cleared up.

{Tape: 1; Side: B; Approx. Time Count: 10:26 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 478

Motion/Vote: SEN. STEVE BENEDICT MOVED HB 478 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. CRISMORE WILL CARRY.

EXECUTIVE ACTION ON HB 492

Motion/Vote: SEN. BEA MCCARTHY MOVED HB 492 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. HERTEL WILL CARRY.

EXECUTIVE ACTION ON HB 287

Motion: SEN DEBBIE SHEA MOVED HB 287 BE CONCURRED IN.

Amendments: SEN. SHEA MOVED TO AMEND 287 (EXHIBITS 7 AND 8) hb028701.abc and hb028702.abc.

Discussion: SEN. BENEDICT felt that there had been no compromise between the Department of Commerce and the insurance industry. He then offered a substitute motion.

Substitute Motion/Vote: SEN. BENEDICT MOVED TO TABLE HB 287. THE MOTION CARRIED with SENATORS MCCARTHY AND SHEA voting NO: 4-2

HOUSE BILL NO. 399

INTRODUCED BY TUSS, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE DUTIES AND RESPONSIBILITIES FOR CERTIFYING CHEMICAL DEPENDENCY COUNSELORS FROM THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO THE DEPARTMENT OF COMMERCE; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR DEPARTMENT POWERS AND DUTIES; PROVIDING CERTIFICATION REQUIREMENTS AND FEES; PROVIDING FOR COMPLAINTS OF UNPROFESSIONAL CONDUCT AND SANCTIONS; PROVIDING A CRIMINAL PENALTY FOR VIOLATIONS; PROVIDING FOR TRANSITION; AMENDING SECTIONS 33-22-705, 37-23-201, AND 53-24-204, MCA; REPEALING SECTIONS 53-24-215, 53-24-216, AND 53-24-217, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] grants rulemaking authority to the department of commerce.

It is the intent of the legislature that the department of commerce have authority to adopt rules to implement and enforce [sections 1 through 9] and specific authority to adopt rules regarding:

- (1) certification applications and procedures necessary to receive and process those applications;
- (2) examinations and criteria for grading examinations;
- (3) disciplinary standards for certificate holders, including definitions of conduct for which discipline may be appropriate;
- (4) investigations of complaints;
- (5) setting and modifying appropriate fees; and
- (6) a process for renewal of certificates, including procedures for late renewal.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. The legislature finds and declares that because the profession of chemical dependency counseling profoundly affects the lives of people of this state, it is the purpose of [sections 1 through 9] to provide for the common good by ensuring the ethical, qualified, and professional

1 practice of chemical dependency counseling. [Sections 1 through 9] and the rules promulgated under
2 [section 3] set standards of qualification, education, training, and experience and establish professional
3 ethics for those who seek to engage in the practice of chemical dependency counseling as certified
4 chemical dependency counselors.

5
6 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 9], the following definitions
7 apply:

8 (1) "Accredited college or university" means a college or university accredited by a regional
9 accrediting association for institutions of higher learning.

10 (2) "Certified chemical dependency counselor" means a person who has the knowledge and skill
11 necessary to provide the therapeutic process of chemical dependency counseling and who is certified under
12 the provisions of [sections 1 through 9].

13 (3) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates
14 behavior or health problems, or both, resulting in operational impairment. This term includes alcoholism,
15 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of
16 an individual or the public health, safety, or welfare.

17 (4) "Department" means the department of commerce provided for in 2-15-1801.
18

19 **NEW SECTION. Section 3. Department powers and duties.** (1) The department shall:

20 (a) examine, certify, and renew the certificates of qualified applicants;

21 (b) adopt rules:

22 (i) for eligibility requirements and competency standards;

23 (ii) prescribing the time, place, content, and passing requirements of the certification and
24 competency examinations and passing scores for certification under [section 5];

25 (iii) for application forms and fees for certification and for renewal and certification expiration dates;

26 and

27 (iv) defining any unprofessional conduct that is not included in 37-1-316; and

28 (c) adopt and implement rules for training programs, internships, and continuing education
29 requirements to ensure the quality of chemical dependency counseling.

30 (2) The department may:

1 (a) adopt rules necessary to implement the provisions of [sections 1 through 9];

2 (b) adopt rules specifying the scope of chemical dependency counseling that are consistent with
3 the education required by [section 5]; and

4 (c) establish recertification requirements and procedures that the department considers appropriate.
5

6 **NEW SECTION. Section 4. Certificate required -- exceptions.** (1) Except as otherwise provided
7 in [sections 1 through 9], a person may not practice chemical dependency counseling or represent to the
8 public that the person is a certified chemical dependency counselor unless the person is certified under the
9 provisions of [sections 1 through 9].

10 (2) [Sections 1 through 9] do not prohibit an activity or service:

11 (a) performed by a qualified member of a profession, such as a physician, lawyer, licensed
12 professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation
13 officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or
14 certification and the code of ethics of the person's profession, as long as the person does not represent
15 by title that the person is a certified chemical dependency counselor. If a person is a qualified member of
16 a profession that is not licensed or certified or for which there is no applicable code of ethics, this section
17 does not prohibit an activity or service of the profession as long as the person does not represent by title
18 that the person is a certified chemical dependency counselor.

19 (b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state,
20 county, or municipal agency or an educational, research, or charitable institution if that activity or service
21 or use of that title is a part of the duties of the office or position;

22 (c) of an employee of a business establishment performed solely for the benefit of the
23 establishment's employees;

24 (d) of a student, intern, or resident in chemical dependency counseling who is pursuing a course
25 of study at an accredited college or university or who is working in a generally recognized training center
26 if the activity or service constitutes part of the course of study;

27 (e) of a person who is not a resident of this state if the activity or service is rendered for a period
28 that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under
29 the laws of the state or country of residence to perform the activity or service. However, the person shall
30 report to the department the nature and extent of the activity or service if it exceeds 10 days in a calendar

1 year.

2 (f) of a person who is working to satisfactorily complete supervised chemical dependency
3 counseling experience required for certification.

4 (3) [Sections 1 through 9] are not intended to limit, preclude, or interfere with the practice of other
5 persons and health care providers licensed by the appropriate agencies of the state of Montana.

6

7 **NEW SECTION. Section 5. Certification requirements -- examination -- fees.** (1) To be eligible for
8 certification as a chemical dependency counselor, the applicant shall submit an application fee in an amount
9 established by the department by rule and a written application on a form provided by the department that
10 demonstrates that the applicant has completed the eligibility requirements and competency standards as
11 defined by department rule.

12 (2) A person may apply for certification as a certified chemical dependency counselor if the person
13 has:

14 (a) received a baccalaureate degree in alcohol and drug studies, psychology, sociology, social work,
15 counseling, or a related field from an accredited college or university;

16 (b) received an associate of arts degree in alcohol and drug studies, chemical dependency, or
17 substance abuse from an accredited institution; or

18 (c) successfully completed at least 1 year of formalized training in chemical dependency counseling
19 in a program approved by the department or recognized under the laws of another state.

20 (3) Prior to becoming eligible to begin the examination process, each person shall complete
21 supervised work experience in a chemical dependency treatment program as defined by the department,
22 in an internship approved by the department, or in a similar program recognized under the laws of another
23 state.

24 (4) Each applicant shall successfully complete a competency examination process as defined by
25 rules adopted by the department.

26 (5) A person holding a certificate to practice as a certified chemical dependency counselor in this
27 state may use the title "certified chemical dependency counselor".

28

29 **NEW SECTION. Section 6. Renewal of license -- application and fee.** (1) A certificate expires
30 biennially on the date set by department rule.

(2) A certificate holder may renew a certificate by:

- (a) filing an application on a form prescribed by the department; and
- (b) paying a renewal fee in an amount established by the department.

(3) A default in the payment of a renewal fee after the date it is due may increase the fee, as prescribed by the department by rule.

(4) It is unlawful for a person who refuses or fails to pay the renewal fee to practice as a certified chemical dependency counselor in this state.

(5) A certificate not renewed within 1 year following its expiration date terminates automatically.

NEW SECTION. Section 7. Unprofessional conduct complaint -- sanctions. (1) A formal complaint alleging unprofessional conduct by a certified chemical dependency counselor may be directed to the department. The charges must be made by an affidavit, subscribed and sworn to by the person making it, and filed with the department.

(2) The complaint may allege any unprofessional conduct contained in 37-1-316 or as further defined by department rule that constitutes a threat to the public health, safety, or welfare and that is inappropriate to the practice of a certified chemical dependency counselor.

(3) The director of the department shall appoint a review panel to investigate a complaint of unprofessional conduct directed to the department. The panel must consist of:

- (a) ~~three~~ TWO certified chemical dependency counselors;
- (b) one employee of the department; and
- (c) ~~one member~~ TWO MEMBERS of the public.

(4) The panel shall recommend to the department either that the person be cleared of any charges or that a sanction or combination of sanctions contained in 37-1-312 be imposed.

(5) For the purposes of this section, the department is vested with a board's authority for the purposes of the procedures in 37-1-307 through 37-1-318 regarding unprofessional conduct, and 37-1-301 through 37-1-318 apply to any proceeding under this section.

NEW SECTION. Section 8. Penalty. A person convicted of violating any provision of [sections 1 through 9] is guilty of a misdemeanor and shall be fined an amount not to exceed \$500, be imprisoned in a county jail for a term not to exceed 6 months, or both.

1 **NEW SECTION. Section 9. Deposit of fees.** All fees and money received by the department must
2 be deposited in the state treasury to the credit of a state special revenue fund for use by the department
3 in its performance of its duties under [sections 1 through 9].
4

5 **NEW SECTION. Section 10. Transition -- transfer of certificates.** The department shall grant a
6 certificate without the need for further application or other requirements to those persons holding a current,
7 unrestricted certificate as a certified chemical dependency counselor as of [the effective date of this act]
8 that was issued by the department of public health and human services.
9

10 **Section 11.** Section 33-22-705, MCA, is amended to read:

11 **"33-22-705. Inpatient and outpatient benefits.** (1) "Inpatient benefits" are benefits payable for
12 charges made by a hospital or freestanding inpatient facility for the necessary care and treatment of mental
13 illness, alcoholism, or drug addiction furnished to a covered person while confined as an inpatient and, with
14 respect to major medical policies or contracts, also includes those benefits payable for charges made by
15 a physician for the necessary care and treatment of mental illness, alcoholism, or drug addiction furnished
16 to a covered person while confined as an inpatient. Care and treatment of alcoholism or drug addiction in
17 a freestanding inpatient facility must be in a chemical dependency treatment center that is approved by the
18 department of public health and human services under 53-24-208.

19 (2) "Outpatient benefits" are benefits payable for:

20 (a) reasonable charges made by a hospital for the necessary care and treatment of mental illness,
21 alcoholism, or drug addiction furnished to a covered person while not confined as an inpatient;

22 (b) reasonable charges for services rendered or prescribed by a physician for the necessary care
23 and treatment for mental illness, alcoholism, or drug addiction furnished to a covered person while not
24 confined as an inpatient;

25 (c) reasonable charges made by a mental health or chemical dependency treatment center for the
26 necessary care and treatment of a covered person provided in the treatment center. The chemical
27 dependency treatment center must be approved by the department of public health and human services
28 under 53-24-208.

29 (d) reasonable charges for services rendered by a licensed psychiatrist, psychologist, licensed
30 professional counselor, licensed social worker, or chemical dependency counselor certified by the

department of ~~public health and human services under 53-24-204~~ commerce under [sections 1 through 9]."

Section 12. Section 37-23-201, MCA, is amended to read:

"37-23-201. Representation or practice as licensed clinical professional counselor -- license required. (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical professional counselor" or "professional counselor".

(2) Except as provided in subsection (3), a person may not represent that the person is a licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after the person's name or by any other means, engage in the practice of professional counseling, or represent that the person is engaged in the practice of professional counseling, unless licensed under this chapter.

(3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC".

(4) Subsection (2) does not prohibit:

(a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor accredited by a federal agency, or chemical dependency counselor certified pursuant to ~~53-24-215~~ [sections 1 through 9], from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession or, in the case of a qualified member of another profession who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is engaging in the practice of professional counseling;

(b) an activity or service or use of an official title by a person employed by or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution that is a part of the duties of the office or position;

(c) an activity or service of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) an activity or service of a student, intern, or resident in mental health counseling pursuing a course of study at an accredited university or college or working in a generally recognized training center

1 if the activity or service constitutes a part of the supervised course of study;

2 (e) an activity or service of a person who is not a resident of this state, which activity or service
3 is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year, if the
4 person is authorized under the law of the state or country of residence to perform the activity or service.
5 However, the person shall report to the department of commerce the nature and extent of the activity or
6 service if it exceeds 10 days in a calendar year.

7 (f) pending disposition of the application for a license, the activity or service by a person who has
8 recently become a resident of this state, has applied for a license within 90 days of taking up residency in
9 this state, and is licensed to perform the activity or service in the state of the person's former residence;

10 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of
11 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned
12 graduate program as required by 37-23-202(1)(a) or is working to complete the 3,000 hours of social work
13 experience as required by 37-22-301; or

14 (h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed
15 psychologist when performing the activity or service in a manner consistent with the person's license and
16 the code of ethics of the person's profession."

17
18 **Section 13.** Section 53-24-204, MCA, is amended to read:

19 **"53-24-204. Powers and duties of department.** (1) To carry out this chapter, the department may:

- 20 (a) accept gifts, grants, and donations of money and property from public and private sources;
21 (b) enter into contracts;
22 (c) acquire and dispose of property.

23 (2) The department shall:

- 24 (a) approve treatment facilities as provided for in 53-24-208;
25 (b) prepare a comprehensive long-term state chemical dependency plan every 4 years and update
26 this plan each biennium;
27 (c) provide for and conduct statewide service system evaluations;
28 (d) distribute state and federal funds to the counties for approved treatment programs in
29 accordance with the provisions of 53-24-206;
30 (e) plan in conjunction with approved programs and provide for training of program personnel

1 delivering services to ~~chemically dependent~~ persons with a chemical dependency;

2 (f) establish criteria to be used for the development of new programs;

3 ~~(g) certify and establish standards for the certification of:~~

4 ~~(i) chemical dependency counselors; and~~

5 ~~(ii) instructors providing chemical dependency educational courses;~~

6 ~~(h)(g)~~ encourage planning for the greatest utilization of funds by discouraging duplication of
7 services, encouraging efficiency of services through existing programs, and encouraging rural counties to
8 form multicounty districts or contract with urban programs for services;

9 ~~(h)(h)~~ cooperate with the board of pardons and parole in establishing and conducting programs to
10 provide treatment for ~~chemically dependent and~~ intoxicated persons and persons with a chemical
11 dependency in or on parole from penal institutions;

12 ~~(i)(i)~~ establish standards for chemical dependency educational courses provided by state-approved
13 treatment programs and approve or disapprove the courses; and

14 ~~(k)(j)~~ assist all interested public agencies and private organizations in developing education and
15 prevention programs for chemical dependency."

16
17 **NEW SECTION. Section 14. Repealer.** Sections 53-24-215, 53-24-216, and 53-24-217, MCA, are
18 repealed.

19
20 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 9] are intended to be
21 codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 9].

22
23 **NEW SECTION. Section 16. Effective dates.** (1) Except as provided in subsection (2), [this act]
24 is effective July 1, 1997.

25 (2) The department may publish a notice of adoption of rules and of a hearing to adopt rules to be
26 effective on July 1, 1997.

27 -END-